

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.24472 of 2000

28.6.2007

Between:

Puvvala Ramaiah, S/o.Venkaiah

... Petitioner

AND

Agent to Government/District Collector, Khammam District

And others

... Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.24472 of 2000

ORDER:

The petitioner is occupant of land admeasuring Acs.6.00 in survey No.34 situated at Tuthekkilingannapet village of Enkur Mandal in Khammam District – an agency area. It is his case that his grandfather, late Puvvala Kotaiah, purchased the said land under an unregistered sada sale deed dated 10.6.1955 from Kondapalli Gopal and obtained necessary mutation as a result of which, in the pahanis from 1955-1956 to 1968-1969 and 1974-1975, Puvvala Kotaiah was shown as occupant. He was allegedly paying necessary revenue to the authorities and cultivating the land. After death of Puvvala Kotaiah, petitioner's father succeeded to the property and obtained Pattadar Pass Book (PPB). The Special Revenue Inspector submitted a report on 01.2.1993 to the second respondent alleging that the land in survey No.34 is in occupation of a non-tribal. In response thereto, the second respondent initiated enquiry and ordered notice in Form-E under Rules 7(1) and 7(2) of Andhra Pradesh Scheduled Areas Land Transfer Regulation Rules, 1969, to Puvvala Veeraiah statedly the brother of the petitioner. In the said notice, it was alleged that the land, in possession of a non-tribal, is in contravention of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (the Regulation, for brevity). Notice was also issued to Kondapalli Gopal. Both of them were absent, when the case was called on 23.3.1993, 22.4.1993, 22.7.1998, 13.8.1998 and 19.8.1998. Therefore the second respondent, after verifying the records placed before him, came to the conclusion that the petitioner's brother, Puvvala Veeraiah, was in possession of the land pursuant to a transaction in contravention of Section 3 of the Regulation and accordingly ordered ejectment of the non-tribal from the land. By that time Puvvala Veeraiah, against whom the order was passed, was no more. Therefore, the petitioner filed appeal being CMA No.62 of 1998 before first respondent, who dismissed the appeal on 30.10.2000. Aggrieved by the same, the present writ petition is filed.

Learned Counsel for the petitioner submits that the original

authority passed an *ex parte* order and, therefore, the petitioner or his family members had no opportunity to effectively represent their case. Secondly he submits that though the appellate authority heard the petitioner, he failed to appreciate the evidence placed before him. According to the learned Counsel, in the pahanis for various years Kondapalli Gopal was shown as occupant of the land along with other names and, therefore, inference can be drawn that the petitioner's grandfather, father and brother, were shown as occupants right from 1955. Learned Counsel would contend that the Agent to the Government is not competent to hold that the agreement of sale dated 10.6.1955 under which the petitioner's grandfather purchased the property is fabricated. Learned Counsel would urge that such an observation is beyond the scope of the enquiry under the Regulation. These contentions are refuted by the learned Government Pleader for Social Welfare.

The submission of the learned Counsel for the petitioner that the District Collector/Agent to the Government erred in not drawing appropriate inference from various pahanis cannot be accepted. The Agent to the Government took pains to verify the pahanis from 1954-1955 to 1973-1974 (seventeen years). He found that in the occupant column for all those years the name of Kondapalli Gopal along with other names was mentioned. The Agent to the Government then verified land revenue receipts filed by the petitioner and found that they are only for two years i.e., 1963-1964 and 1964-1965. The PPB issued by the Tahsildar, Kothagudem, on 26.11.1974 produced by the petitioner is rejected as it was found to be in contravention of Rule 9(1)(a)(vi)(6) of the Andhra Pradesh Rights in Land and Pattadar Pass Books Rules, 1989. The said provision prohibits the Tahsildar from passing any order for changing the entries in the land revenue records in contravention of the Regulation. The Agent to the Government also considered the sale agreement dated 10.6.1955 under which the petitioner was claiming title and found that it is fabricated and forged one. Even otherwise, agreement of sale as such does not confer any title though the vendee under such agreement can protect his possession. In this case, petitioner failed to produce any evidence before the appellate authority and, therefore, the order is sustainable. The submission that the petitioner or his family members had no opportunity to effectively represent their case before the original authority, cannot be accepted. Admittedly, the action was initiated against Puvvala Veeraiah, bother of the petitioner, and he had ample opportunity but did not appear. Whatever defect that was there when the second respondent passed, has been cured by the elaborate exercise undertaken by the appellate authority.

The writ petition is devoid of any merit and is accordingly dismissed. No costs.

June 28, 2007
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(V.V.S.RAO, J)